

MICHAEL R. SCOLNICK (MS9984)
Michael R. Scolnick, P.C.
175 Burrows Lane
Blauvelt, New York 10913
Telephone (845) 354-9339
Facsimile (845) 365-1506
Attorneys for Plaintiff

United States District Court

Southern District of New York

ANTHONY RIVERA

Plaintiff,

-against-

MICHAEL CARROLL, S.P.O. DEREK E. MURPHY,
F.P.O. ROBERT J. BUTERA, P.O. LINDA BANKS
SPENCE, A.P.A. CHARLOTTE A. WRIGHT, P.O.
TAYLOR, F.P.O.II D. AMEND, S.A.A. DONNA J.
BLEICHERT, F.P.O.I F. WELCH, and F.P.O.II
F.MARLENGA,

Defendants.

**NOTICE OF MOTION TO
BE RELIEVED AS
COUNSEL FOR
PLAINTIFF**

07CIV7847 (RJS)

TO ANTHONY RIVERA, ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

PLEASE TAKE NOTICE, that upon the annexed affirmation of **MICHAEL R. SCOLNICK**, dated on November 4, 2008, together with the exhibits attached thereto, and upon all the pleadings and proceedings heretofore had herein, the undersigned will move this Court before Hon. Richard J. Sullivan, District Judge, in Room 615, U. S. District Court, located at 500 Pearl Street, New York, New York 10007, on such day as the Court may set, at 9:30 AM, or as soon thereafter as counsel can be heard for an Order, pursuant to Local Civil Rule 1.4 (Withdrawal or Displacement of Attorney of Record) to withdraw as Counsel of Record and substitute ANTHONY RIVERA, *pro se*, and for such other and further relief as to this Court seems just and proper.

The grounds for this motion is that an irreconcilable difference of opinion between the attorney and the client has arisen, concerning in what direction to pursue this matter and what procedures need to be undertaken. Continued representation of Plaintiff ANTHONY RIVERA by Michael R. Scolnick, P.C. would not be reasonable and would not be in the best interests of either plaintiff or his counsel, the undersigned.

The moving party attorneys cannot, upon information and belief, disclose the facts which give rise to the irreconcilable difference of opinion, without violating the requirements of the Canon of Ethics, Canon 4, Rule 1.6, which requires an attorney to zealously protect the confidentiality of communications and disclosures to the client that could potentially adversely affect any interest of the client. However the moving party attorneys herewith file under seal, for the Court's consideration, and with the Court's consent, stated in the Order made and filed herein, dated November 2, 2009, my declaration of the facts which give rise to the difference of opinion, with the understanding that the Court will not disclose the contents thereof so as to not prejudice the rights and privileges of ANTHONY RIVERA.

NOTICE TO THE CLIENT

On and after September 14, 2009 Plaintiff ANTHONY RIVERA was advised by me of the facts and circumstances which gave rise to this difference of opinion.

During the maintenance of this litigation and currently, the address of Plaintiff is:

George R. Vierno Center (GRVC)
Anthony Rivera, B&C# 2410712085
NYSID#8407195N
09-09 Hazen Street
East Elmhurst, NY 11370

He has no telephone number or cell phone number.

YOU WILL NOT HAVE AN ATTORNEY IF THIS APPLICATION IS GRANTED AND IT IS MOST IMPORTANT THAT YOU GET LEGAL HELP OR REPRESENTATION

If this application to withdraw as counsel is granted, you will not have an attorney representing you.

You must seek legal assistance. If you do not have a new attorney to represent you in this action, you will be representing yourself. It will be your responsibility to comply with all court rules and applicable laws. If you fail to do so, or fail to appear at hearings, action may be taken against you.

You may lose your case.

IF THIS APPLICATION IS GRANTED, YOU MUST KEEP THE COURT INFORMED ON HOW TO CONTACT YOU.

If this application to withdraw as counsel is granted, the court needs to know how to contact you.

If you do not keep the court and other parties informed of your current address and telephone number, they will not be able to send notices of actions that may effect you, including actions that may adversely affect your interest or result in your losing the case.

On November 4, 2009 plaintiff ANTHONY RIVERA was served by ordinary mail with a copy of this Motion to Withdraw at his current address.

Further, ANTHONY RIVERA has been advised in writing above that he must act with diligence to seek new counsel or be prepared to represent himself.

Plaintiffs also move the court to expand the scheduling order ninety days, or any other reasonable time, to allow plaintiff ample time to obtain new counsel.

Dated: BLAUVELT, NEW YORK
November 4, 2009

Yours, etc.

/S/Michael R. Scolnick
MICHAEL R. SCOLNICK, Attorney
MICHAEL R. SCOLNICK, P.C.
Attorneys for Plaintiff ANTHONY RIVERA
175 Burrows Lane
Blauvelt, New York 10913

(845) 354-9339
Our File No. 06-0042

TO: Hon. Andrew Cuomo
Attorney General Of the State of New York
Attorneys for remaining Defendant ROBERT J. BUTERA
120 Broadway
24th Floor
New York, New York 10271
(212) 416-8000
Att: Kevin Harkins, AAG